IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

RFA Nos. 131, 132 and 133 of 2001.

Date of decision: May 13, 2008.

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1. RFA 131 of 2001

L.A.C. & another **Versus** **Avinder Singh.**

2. RFA 132 of 2001

L.A.C. & another **Versus** **Jaswant Singh.**

3. RFA 133 of 2001.

L.A.C. & another **Versus** **Bimla Mahajan.**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud, J.

Whether approved for reporting?[1] *Yes.*

For the appellants: **Ms. Ruma Kaushik, Addl. AG.**

For the Respondent(s): **Mr. Bhupinder Gupta, Sr. Advocate, with Mr. Neeraj Gupta, Advocate.**

Dev Darshan Sud, J. (Oral).

These appeals have been preferred by the State against the award passed by the learned Additional District Judge (hereafter referred to as the Reference Court). All the three appeals are being disposed of by

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[1] *Whether reports of Local Papers may be allowed to see the judgment? Yes.*

a common judgment as they were consolidated and tried together by the learned Reference Court.

The basic grievance of the State is that the award includes within its ambit interest awarded to the claimants from the date of possession and not from the date of notification under Section 4 of the Land Acquisition Act, 1894 (hereafter referred to as the Act). Learned Additional Advocate General submits that notification under Section 4 was issued subsequent to the taking over of the possession. She submits that in terms of the judgments passed by this Court in Narotam Ram v. Land Acquisition Collector and others (2002 (3) Shim. L.C. 45), following the judgment of the Hon'ble Supreme Court in *Siddappa Vasappa Kuri and another v. Special Land Acquisition Officer and another,* (2002) 1 SCC 142, no interest can be awarded for the period prior to the issuance of the notification under Section 4 of the Act. She also places reliance on the judgments of the Hon'ble Supreme Court in Siddappa Vasappa Kuri and another v. Special Land Acquisition Officer and another, (2002) 1 SCC 142 and R.L. Jain (D) by LRs. v. DDA and others (2004) 4 SCC 79, holding that the Act does not contemplate payment of any sum prior to issuance of the notification under Section 4(1) of the Act.

The proposition of law as laid down in these three judgments cannot be disputed.

Learned counsel appearing for the respondents submits that although notification under Section 4 of the Act may have been issued subsequent to taking over of possession of the land, however, the claimants entitlement to receive rent and damages for use and occupation of the property prior to the date of acquisition cannot be denied by the State. He has placed reliance on judgment of the Hon'ble Supreme Court in Land Acquisition Officer & Asstt. Commissioner and another v. Hemanagouda and others (2005) 12 SCC 443.

These appeals are accordingly accepted and the following directions are issued:

(i) the appeals are remanded to the Reference Court, i.e. the Court of learned District Judge, Solan;

(ii) On remand, the Reference Court will redetermine the compensation in accordance with the decisions in Narotam Ram v. Land Acquisition Collector and others (2002 (3) Shim. L.C. 45); Siddappa Vasappa Kuri and another v. Special Land Acquisition Officer and another, (2002) 1 SCC 142) and R.L. Jain (D) by LRs. v. DDA and others (2004) 4 SCC 79) and Land Acquisition Officer vs. Hemanagouda and others (2005) 12 SCC 443.

(iii) The claimants will be at liberty to establish their claim for reimbursement of money / compensation for use of their property by the State without recourse to proceedings under the Act. For this purpose, the claimants as well as the State would be free to adduce evidence in accordance with law. It is clarified that no other evidence except that which is necessary for determination of compensation for use of the land and deprivation of its use by the claimants by the State prior to notification under Section 4 of the Act will be allowed.

(iv) Parties are directed to appear before the learned Reference Court on 18.6.2008. The Reference Court shall dispose of the matters before 31.3.2009.

Learned Additional Advocate General has also argued that the compensation awarded to the claimants is excessive and that there was no justification for fixing Rs.12,000/- per biswa as the value of the land irrespective of the category to which it belongs.

Before considering this question in detail, it must be noticed that that respondent-appellant has not produced any evidence regarding value of the land as noticed by the learned Reference Court in

paragraph 17 of the judgment. The learned Reference Court has rightly held that cross examination of the witnesses did not reveal any discrepancy in the evidence to show that the value was lesser than that which was awarded by the learned Reference Court. Coupled with the fact that no documentary evidence was produced, the contention of the learned Additional Advocate General that compensation has been awarded at higher rate cannot be accepted. This submission is accordingly rejected.

These appeals are disposed of with these directions. There shall be no order as to costs. All pending application(s) shall stand disposed of.

May 13, 2008 (PC). (Dev Darshan Sud), J.